

JUDGE PAULY

11 CV 8469

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SIEMENS PRODUCT LIFECYCLE
MANAGEMENT SOFTWARE, INC.,

Plaintiff,

v.

DOES 1- 50,

Defendants.

Case No.:

COMPLAINT



Plaintiff Siemens Product Lifecycle Management Software, Inc., by its attorneys,
for and on behalf of its complaint against Defendants Does 1-50, hereby alleges as follows:

JURISDICTION AND VENUE

1. This is a civil action seeking damages and injunctive relief for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101, *et seq.*).

2. This Court has jurisdiction of this action pursuant to 17 U.S.C. § 101, *et seq.*; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).

3. Venue in this District is proper under 28 U.S.C. § 1391(b) and/or 28 U.S.C. § 1400(a). Although the true identify of the Defendants is unknown to Plaintiff at this time, on information and belief, the Defendants may be found in this District and/or a substantial part of the acts of infringement complained of herein occurred in this District. On information and belief, personal jurisdiction in this District is proper because each Defendant, without consent or permission of the copyright owner, Plaintiff, purposefully availed themselves of the services of

an Internet Service Provider (“ISP”) located in this District in order to illegally download and/or use from the Internet copyrighted works owned by the plaintiff and/or in connection with a computer implicated in the Defendants’ infringing acts.

PARTIES

4. Plaintiff Siemens Product Lifecycle Management Software Inc. (“Siemens” or “Plaintiff”) is a corporation duly organized and existing under the laws of the State of Delaware, with its principal place of business in the State of Texas.

5. The true names and capacities of the Defendants Does 1-50 are unknown to Plaintiff at this time. Each Defendant is known to Plaintiff only by the Internet Protocol (“IP”) address assigned to that Defendant by his or her ISP on the date and time at which the infringing activity of each Defendant was observed. Plaintiff believes that information obtained in discovery, including through discovery from the ISP, will lead to the identification of each Defendant’s true name.

FIRST CAUSE OF ACTION **(Infringement of Copyrights Against Does 1-50)**

6. Plaintiff incorporates herein by reference each and every allegation contained in each paragraph above.

7. Siemens manufactures and distributes Product Lifecycle Management (“PLM”) software, which allows companies to manage the entire lifecycle of a product efficiently and cost-effectively, from ideation, design and manufacture, through service and disposal. PLM software brings together computer-aided design (“CAD”), computer-aided manufacturing (“CAM”), computer-aided engineering (“CAE”), product data management (“PDM”) and digital manufacturing. By providing the application depth and breadth needed to digitally author, validate and manage the detailed product and process data, PLM supports innovation by its

customers.

8. NX 7 and NX 8 software are among the PLM software products offered by Plaintiff. NX 7 and NX 8 software offers the industry's broadest suite of integrated, fully associative CAD/CAM/CAE applications. NX 7 and NX 8 touches the full range of development processes in product design, manufacturing and simulation, allowing companies to encourage the use of best practices by capturing and reusing product and process knowledge.

9. Solid Edge software is also among the PLM products offered by Plaintiff. Solid Edge is an industry-leading mechanical design system with exceptional tools for creating and managing 3D digital prototypes. Solid Edge modeling and assembly tools enable Plaintiff's customers' engineering teams to easily develop a full range of products, from single parts to assemblies containing many components. Tailored commands and structured workflows accelerate the design of features common in specific industries and ensure accurate fit and function of parts by designing, analyzing and modifying them within the assembly model. Solid Edge is a unique mainstream mechanical system that merges design management capabilities with the CAD tools that designers frequently use. With superior core modeling and process workflows, a unique focus on the needs of specific industries and fully integrated design management, Solid Edge helps guide projects toward an accurate design solution.

10. Siemens PLM software, including NX 7, NX 8 and Solid Edge software, constitutes and contains Siemens's valuable intellectual property that has been developed over many years through the investment of substantial resources. To protect its rights and interests in its valuable software, including but not limited to NX 7 and NX 8 software and Solid Edge software, Siemens obtains and registers copyrights to its works. Siemens is, and at all relevant times has been, the copyright owner under United States copyright law with respect to certain

copyrighted software including, but not limited to, the NX 7 and NX 8 software and Solid Edge software (the “Copyrighted Software”). The Copyrighted Software is the subject of valid Copyright Registrations issued by the Register of Copyrights to Plaintiff. A copy of Copyright Registration Number TXu 1-656-782, dated November 24, 2009, which covers the NX 7 software is attached hereto as Exhibit A. A copy of Copyright Registration Number TXu 1-769-323, dated August 8, 2011, which covers the NX 8 software is attached hereto as Exhibit B. A copy of Copyright Registration Number TXu 1-724-134, dated October 22, 2010, which covers the Solid Edge software is attached hereto as Exhibit C.

11. Plaintiff has placed proper notices of copyright pursuant to 17 U.S.C. § 401 on the Copyrighted Software.

12. Among the exclusive rights granted to Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Software and to distribute the Copyrighted Software to the public.

13. Plaintiff is informed and believes that each Defendant, without permission or consent of Plaintiff, has used, and continues to use, a computer with an Internet connection to download and/or use certain of the Copyrighted Software. In doing so, each Defendant has violated Plaintiff’s exclusive rights of reproduction and/or distribution. The Defendants’ actions constitute infringement of Plaintiff’s copyrights and/or exclusive rights under copyright.

14. Plaintiff is informed and believes that the foregoing acts of infringement have been willful, intentional, and in disregard of and with indifference to the rights of Plaintiff.

15. As a result of each Defendant’s infringement of Plaintiff’s copyrights and exclusive rights under copyright, Plaintiff is entitled to statutory damages pursuant to 17 U.S.C. §§ 502 and 503.

16. As a result of each Defendant's infringement of Plaintiff's copyrights and exclusive rights under copyright, Plaintiff is entitled to actual damages according to proof.

17. As a result of each Defendant's infringement of Plaintiff's copyrights and exclusive rights under copyright, Plaintiff is entitled to an accounting of each Defendant's use and/or downloading of the Copyrighted Software and an accounting and recovery of revenues and profits obtained by each Defendant by or through such use and/or downloading of such software.

18. As a result of each Defendant's infringement of Plaintiff's copyrights and exclusive rights under copyright, including willful and intentional infringement, Plaintiff is also entitled to enhanced damages and recovery of its attorneys' fees and costs.

19. As a result of each Defendant's infringement of Plaintiff's copyrights and exclusive rights under copyright, Plaintiff is also entitled to injunctive relief prohibiting each Defendant from further infringing Plaintiff's copyrights, and ordering that each Defendant destroy all copies of copyrighted software made in violation of Plaintiff's exclusive rights.

DEMAND FOR JURY TRIAL

Plaintiff Siemens Product Lifecycle Management Software, Inc. hereby demands a trial by jury on all triable issues.

WHEREFORE, Plaintiff prays for judgment against each Defendant as follows:


1. For an injunction providing:

“Defendant shall be and hereby is enjoined from directly or indirectly infringing Plaintiff's rights under federal or state law in the Copyrighted Software, whether now in existence or later created, that is owned or controlled by Plaintiff (or any parent, subsidiary, or

affiliate of Plaintiff) (“Plaintiff’s Software”), including without limitation by using and/or downloading any of Plaintiff’s Software, except pursuant to a lawful license or with the express authority of Plaintiff. Each Defendant also shall destroy all copies of Plaintiff’s Software that the Defendant has used and/or downloaded onto any computer hard drive or server without Plaintiff’s authorization and shall destroy all copies of that downloaded software transferred onto any physical medium or device in Defendant’s possession, custody, or control.”

2. For statutory damages for each infringement of each Copyrighted Software pursuant to 17 U.S.C. § 504;
3. For actual damages according to proof;
4. For an accounting of the use and/or download by each Defendant of the Copyrighted Software;
5. For an accounting of any revenues and profits realized by or through each Defendant’s use and/or download of the Copyrighted Software;
6. For enhanced damages;
7. For Plaintiff’s costs in this action;
8. For Plaintiff’s reasonable attorneys’ fees incurred herein; and
9. For such other and further relief as the Court may deem just and proper.

DATED this the 21st day of November, 2011.

A handwritten signature in black ink, appearing to read "David A. Kochman", is written over a horizontal line.

David A. Kochman (DK1809)

REED SMITH LLP

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New York, NY 10022

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Facsimile: 1 212 521 5450

Counsel for Plaintiff

*Siemens Product Lifecycle Management
Software, Inc.*

EXHIBIT A

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number
TXu 1-656-782

Effective date of
registration:
November 24, 2009

Title

Title of Work: NX 7.0

Completion/Publication

Year of Completion: 2009

Author

Author: Siemens Product Lifecycle Management Software Inc.

Author Created: computer program

Work made for hire: Yes

Domiciled in: United States

Copyright claimant

Copyright Claimant: Siemens Product Lifecycle Management Software Inc.

5800 Granite Parkway, Suite 600, Plano, TX, 75024, United States

Limitation of copyright claim

Material excluded from this claim: computer program

Previous registration and year: Txu 1-613-484 2009

New material included in claim: computer program

Rights and Permissions

Organization Name: Siemens Product Lifecycle Management

Name: Software Inc.
Allen Scott Lineberry

Email: allen.lineberry@siemens.com

Telephone: 972-987-3211

Address: 5800 Granite Parkway, Suite 600

Plano, TX 75024 United States

Certification

Registration #: TXU001656782

Service Request #: 1-404093292

Siemens Product Lifecycle Management Software Inc.
Nancy Cannon
5800 Granite Parkway, Suite 600
Plano, TX 75024 United States

EXHIBIT B

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
TXu 1-769-323

Effective date of
registration:
August 8, 2011

Title

Title of Work: NX 8

Completion/Publication

Year of Completion: 2011

Author

■ Author: Siemens Product Lifecycle Management Software Inc.

Author Created: computer program

Work made for hire: Yes

Domiciled in: United States

Copyright claimant

Copyright Claimant: Siemens Product Lifecycle Management Software Inc.
5800 Granite Parkway, Suite 600, Plano, TX, 75024, United States

Rights and Permissions

Organization Name: Siemens Product Lifecycle Management

Name: Software Inc.
Allen Scott Lineberry

Email: allen.lineberry@siemens.com

Telephone: 972-987-3211

Address: 5800 Granite Parkway, Suite 600

Plano, TX 75024 United States

Certification

Name: Allen Scott Lineberry

Date: August 8, 2011

Applicant's Tracking Number: 2011Z17618 US

EXHIBIT C

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Mania A. Pallante

Acting Register of Copyrights, United States of America

Registration Number
TXu 1-724-134

Effective date of
registration:
October 22, 2010

Title

Title of Work: SOLID EDGE WITH SYNCHRONOUS TECHNOLOGY.3

Completion/Publication

Year of Completion: 2010

Author

Author: Siemens Product Lifecycle Management Software Inc.

Author Created: computer program

Work made for hire: Yes

Domiciled in: United States

Copyright claimant

Copyright Claimant: Siemens Product Lifecycle Management Software Inc.

5800 Granite Parkway, Suite 600, Plano, TX, 75024, United States

Rights and Permissions

Organization Name: Siemens Product Lifecycle Management
Software Inc.

Name: Allen Scott Lineberry

Email: trademarks@ugs.com

Telephone: 972-987-3211

Address: 5800 Granite Parkway, Suite 600
Plano, TX 75024 United States

Certification

Name: Allen Scott Lineberry

Date: October 22, 2010

Applicant's Tracking Number: 2010Z03267 US

Registration #: TXU001724134

Service Request #: 1-506931462



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